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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,300

09/10/2004

Martina Koenig

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04/14/2008

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC

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EXAMINER

CHIVUKULA, SURAJ

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

04/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/507,300	Applicant(s) KOENIG ET AL.	
	Examiner SURAJ CHIVUKULA	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/10/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/10/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The references listed in the Information Disclosure Statement filed on September 10, 2004 have been considered by the examiner (see attached PTO-326 form).

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Objections

3. Claims 4 and 17 objected to because of the following informalities: 1 to 100 $\text{cm}^3/\text{m}^2 \text{ bar d}$ and 1 to 50 $\text{g}/\text{m}^2 \text{ d}$ should be written 1 to 100 $\text{cm}^3/(\text{m}^2 * \text{bar} * \text{d})$ and 1 to 50 $\text{g}/(\text{m}^2 * \text{d})$. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wielockx et al. (EP 0 878 133) in view of Huchel (US 6250468) and Davis (US 4949529).

Regarding claims 1-2, 8, 12, and 20, Wielockx discloses a tubular food casing with an inner barrier carrying an aroma and flavor substance such as a spice or seasoning (column 6 lines 14-16, column 1 lines 14-20, column 4 lines 12-15).

It should be noticed that Wielockx does not disclose an outer and inner tubular casing, a casing made of a polymer material having low permeability properties, a casing oxygen and water vapor permeability of 1 to 100 $\text{cm}^3/(\text{m}^2 \cdot \text{bar} \cdot \text{d})$ and 1 to 50 $\text{g}/(\text{m}^2 \cdot \text{d})$ respectively. However, utilizing the optimum degree of oxygen and water vapor permeability would require nothing more than routine experimentation by one of ordinary skill in the art and in the absence of unexpected results can be accorded no patentable weight.

6. Regarding claims 5-6, and 18, Wielockx discloses a food casing with a tubular body and coating composition layer i.e. multiple layer coatings including polymers and polyamides (column 4 lines 27-30, column 2 lines 1-3, column 8 lines 10-14).

7. Regarding claims 7 and 19, Wielockx discloses a casing containing cellulose (column 9 lines 46-55), paper or non-woven fabric (column 6 lines 42-48).

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8. Regarding claims 9-10, Wielockx discloses a casing where the flavor substance is included with a binder (column 6 lines 51-57) of a protein or cellulose (column 8 lines 21-24).

9. Regarding claim 12, Wielockx discloses a tubular casings pleated into shirred strands or sticks for convenient handling and efficient production during stuffing operations (column 5 lines 20-25).

10. Regarding claim 13, Wielockx discloses an unshirred casing (column 5 lines 16-20).

11. Regarding claim 14, Wielockx discloses binding the food casing by a metal closure (column 2, lines 35-37).

12. Regarding claims 3, 11, and 16, Huchel discloses a tubular sausage film casing (column 2 lines 33-35), made of a polymer material (column 2 lines 38-45), for the purpose of providing a barrier for the product (column 1 lines 15-18).

13. Regarding claims 4, 12, and 17, Huchel discloses a multilayer tubular film casing for sausage products (column 2 lines 33-35, column 3 lines 1-7). Huchel discloses a shirred tubular film (column 2 lines 27-30), with the package being secured by clipping, gluing, or heat sealing, in order to get a liquid tight package (column 2 lines 47-52).

Huchel discloses a film overwrap to hold the shirred food casing and secured at a seal joint (column 3 lines 1-7).

14. Davis discloses a package for foodstuffs which require gas or moisture protection (column 1 lines 6-9). Davis discloses, and it is well known in the art, for multilayer laminate layers to be secured between each other at certain points (as opposed to across the whole web) in order to provide desired mechanical characteristics. They include improved stability, texture, and barrier properties (Abstract, column 1 lines 6-11, column 2 lines 52-56).

15. Wielockx, Huchel, and Davis are related to multilayer film casings for foods. Wielockx discloses a multilayer sausage casing with an inner barrier carrying an aroma and flavor substance (column 6 lines 14-16, column 1 lines 14-20, column 4 lines 12-15). Huchel discloses the layers of the casing being bound at a certain point of the film casing and not across the whole web in order to get a liquid tight package. Davis discloses the layers of the casing being bound at a certain point of the film casing and not across the whole web in order to provide desired mechanical characteristics and moisture protection. In addition, Davis discloses the purpose of securing the multilayer structure at certain points as opposed to across the whole web. This purpose is for imparting improved stability, texture, and barrier properties (Abstract, column 1 lines 6-11, column 2 lines 52-56).

One wishing to solve the problem of a sausage casing with improved stability, texture, and barrier properties would combine the references. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sausage casing, as disclosed by Wielockx, with the binding of the layers at a certain point to impart improved properties to the package, as disclosed by Huchel and Davis.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suraj Chivukula whose telephone number is (571) 270-3471. The examiner can normally be reached on M-F 7:30am-5:00pm EST (1st Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

Suraj Chivukula
Examiner
Art Unit 1794

/Carol Chaney/
Supervisory Patent Examiner, Art Unit 1794